

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DOUGLAS CORNELL JACKSON,

Plaintiff,

v.

UNKNOWN LABARE, et al.,

Defendants.

CASE No. 1:21-CV-1060

HON. ROBERT J. JONKER

**ORDER APPROVING AND ADOPTING
REPORTS AND RECOMMENDATIONS**

The Court has reviewed the Reports and Recommendations filed by the United States Magistrate Judge in this action. (ECF Nos. 83, 84, and 85). The three filings were duly served on the parties on January 17, 2023. No objection to the Report and Recommendation at ECF No. 83, which recommends denying Plaintiff's Motion at ECF No. 49, has been filed. Accordingly, the Court denies the motion at ECF No. 49.

Plaintiff has timely objected to the two other Reports and Recommendations. (ECF Nos. 89 and 94). Under the Federal Rules of Civil Procedure, where, as here, a party has objected to portions of a Report and Recommendation, "[t]he district judge . . . has a duty to reject the magistrate judge's recommendation unless, on de novo reconsideration, he or she finds it justified." 12 WRIGHT, MILLER, & MARCUS, FEDERAL PRACTICE AND PROCEDURE § 3070.2, at 381 (2d ed. 1997). Specifically, the Rules provide that:

The district judge must determine de novo any part of the magistrate judge's disposition that has been properly objected to. The district judge may accept, reject, or modify the recommended disposition; receive further evidence; or return the matter to the magistrate judge with instructions.

FED R. CIV. P. 72(b)(3). De novo review in these circumstances requires at least a review of the evidence before the Magistrate Judge. *Hill v. Duriron Co.*, 656 F.2d 1208, 1215 (6th Cir. 1981). The Court has reviewed de novo the claims and evidence presented to the Magistrate Judge; the Report and Recommendation itself; and Plaintiff's objections. After its review, the Court finds the Magistrate Judge's Reports and Recommendations are factually sound and legally granted.

The Report and Recommendation at ECF No. 85 recommends denying Plaintiff's Motion to Compel the Enforcement of his Federal Rights (ECF No. 71). In his objections (ECF No. 94), Plaintiff primarily reiterates and expands upon arguments presented in his original motion. The Magistrate Judge properly analyzed Plaintiff's claims. Nothing in Plaintiff's Objections changes the fundamental analysis. Accordingly, the Court overrules Plaintiff's Objection, adopts the Report and Recommendation (ECF No. 85) and denies Plaintiff's motion. (ECF No. 71).

The Report and Recommendation at ECF No. 84 recommends granting the defense motion for summary judgment (ECF No. 59) and dismissing this action in its entirety for failure to exhaust. As with his other objection, Plaintiff's objections (ECF No. 89) fail to deal in a meaningful way with the Magistrate Judge's analysis and, here, the rules regarding exhaustion of administrative grievances. The Magistrate Judge carefully and thoroughly considered the record, the parties' arguments, and the governing law. The Magistrate Judge properly analyzed Plaintiff's claims. Nothing in Plaintiff's Objections changes the fundamental analysis.

ACCORDINGLY, IT IS ORDERED that the Reports and Recommendations of the Magistrate Judge (ECF Nos. 83, 84, and 85) are **APPROVED AND ADOPTED** as the opinions of the Court.

IT IS FURTHER ORDERED that:

1. Plaintiff's Motions to Compel (ECF Nos. 49 and 71) are **DENIED**.
2. Defendant Labare's Motion for Summary Judgment Based on Failure to Exhaust Administrative Remedies (ECF No. 59) is **GRANTED**.

A separate Judgment shall issue.

The Court discerns no good-faith basis for appeal of this matter. *See McGore v. Wigglesworth*, 114 F.3d 601, 611 (6th Cir. 1997); 28 U.S.C. § 1915(a)(3).

Dated: February 22, 2023

/s/ Robert J. Jonker
ROBERT J. JONKER
UNITED STATES DISTRICT JUDGE